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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/776,150

02/11/2004

Ashutosh Vyas

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3076

47699

7590

03/20/2009

HAYNES AND BOONE, LLP

IP Section

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EXAMINER

PANNALA, SATHYANARAYA R

ART UNIT

PAPER NUMBER

2164

MAIL DATE

DELIVERY MODE

03/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/776,150

Applicant(s)

VYAS ET AL.

Examiner

Sathyanarayan Pannala

Art Unit

2164

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Sathyanarayan Pannala/
Primary Examiner, Art Unit 2164

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's argument with respect 35 U.S.C. 101, Applicant's amendment overcomes the objection of claims 1-11 and the objection is withdrawn. Regarding claims 12-19 rejection is valid because the independent claim 12 preamble is "A computer system comprises:" The limitations are programming steps and there is no relation between the system and the steps. How they are implemented and with what devices and where they are not disclosed. The dependent claims 13-19 are rejected for the same reason. Regarding claims 20-25 rejection is that Applicant claimed a Computer readable medium and the specification do not disclose it. Based on this reason, claims 20-25 are rejected under 101 as well as under 35 U.S.C. 112, 1st paragraph for lack of written description requirement.

Applicant's argument regarding the objection to the specification and the response to it is that it has been clearly stated in the earlier action mailed on 12/11/2008 and there is no further explanation is required.

Applicants Argument regarding rejection of claims under 35 U.S.C. 103 the details as follows:

In response to applicant's arguments regarding claims 1, 12 and 20, the recitation "having ordered access rules" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Regarding Applicant argument as "if the list is empty, creating a new independent rule block and inserting the new access rule", Nguyen teaches at (page 15, paragraph [0434]) as "Another consideration may be: is the design to include a router Access Control List (ACL) and packet filters? Many ISPs choose to omit firewalls and implement router ACL and packet filters instead. Considerations on whether to implement a firewall or router ACL and packet filters may include one or more of, but are not limited to, the following: routers are stateless and do not examine payload, and firewalls are necessary for stateful applications. Applicant further argued as "Nguyen actually teaches the opposite of what Applicants claim." Applicant has combined several features and these are taught by several prior art. Nguyen teaches as "Embodiments of a system and method for designing, developing and implementing Internet Service Provider (ISP) architectures are described. In one embodiment, a method for designing and implementing ISP architectures may include formulating a set of design requirements for an Internet Service Provider (ISP) architecture, establishing an architectural model for the ISP architecture according to the set of design requirements, generating a logical design for the ISP architecture according to the architectural model and the set of design requirements, and generating a physical design for the ISP architecture according to the architectural model and the logical design." at (par. [0031]). It clearly indicates that Nguyen teaches extensively in comparison to currently claimed invention.

Applicant's further argued as "Office Action does not show merging the blocks". In response to Applicant's argument, Examiner respectfully disagrees. Pham teaches the claimed, merging the blocks in the set to form a new independent rule block and inserting the new access rule (Fig. 2, col. 6, lines 31-33). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combine the teachings of the cited references because Pham's teachings would have allowed Harsham's method to provide a mechanisms to secure persistent data that are ultimately reliable and cooperatively manageable (col. 3, lines 4-6).

The above stated responses clearly indicates that the prior art on record do teach the claimed invention and therefore, the final office action mailed on 12/11/2008. In fact, Applicant did not put any efforts to amend claims to overcome rejections and merely arguing.